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March 6, 2000

Sent via e-mail and fax, hand delivery or U.S. mail

Mary L. Cottrell, Secretary
Massachusetts Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

Re: Number Pooling, D.T.E. 99-99

Dear Secretary Cottrell:

Enclosed please find for filing the Attorney General's Opposition to AT&T's Motion for Partial Reconsideration of the January 27, 2000 Letter Order to Accommodate Specific Customer Numbering Requirements, together with a Certificate of Service.

Respectfully submitted,

Karl en J. Reed
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(617) 727-2200

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KJR/kr

Enc.

cc: Kevin Penders, Hearing Officer (w/enc.)

Robert Howley, Hearing Officer (w/enc.)

D. T. E. 99-99 Service List (w/enc.)

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Proceeding by the Department of Telecommunications and)
Energy to conduct mandatory thousands-block number)
pooling trials pursuant to the authority delegated by the)
Federal Communications Commission In the Matter of)
Massachusetts Department of Telecommunications and) D. T. E. 99-99
Energy's Petition for Waiver of Section 52.19 to Implement)
Various Area Code Conservation Methods in the 508, 617,)
781, and 978 Area Codes, CC Docket No. 96-98,)
FCC 99-246, NSD File No. L-99-19 (September 15, 1999))

ATTORNEY GENERAL'S OPPOSITION TO AT&T'S MOTION FOR PARTIAL RECONSIDERATION OF THE
JANUARY 27, 2000 LETTER ORDER TO ACCOMMODATE SPECIFIC CUSTOMER NUMBERING
REQUIREMENTS

Pursuant to the February 25, 2000, Memorandum issued by the Hearing Officers, the
Attorney General hereby submits to the Department of Telecommunications and Energy
("Department" or "D. T. E. ") his opposition to AT&T Communications of New England,
Inc. ("AT&T")'s February 15, 2000, Motion for Partial Reconsideration ("Motion") of
the January 27, 2000, Letter Order to Accommodate Specific Customer Numbering
Requirements ("Order"). The Motion seeks to create an exemption from the
Department's 75 percent fill-rate ratio requirement for thousands-block number

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pooling. The Attorney General asserts that the Department should reject the Motion based on the following:

The Department's current fill-rate ratio and waiver requirement properly allocate number resources.

AT&T's Motion to remove the waiver requirement opens the door for abuse.

1. The Department's current fill-rate ratio and waiver requirements protect number resources while providing carriers with needed numbers upon proper request.

On January 27, 2000, the Department issued an order requiring carriers to meet a 75 percent fill-rate ratio before qualifying for assignment of a new thousands block of numbers ("Order"). This Order requires a carrier to fill one contaminated thousands block to at least 75 percent utilization before assigning numbers from another contaminated thousands block. A contaminated thousands block, for these purposes, is a thousands block in which more than 10 percent of the numbers have been assigned. A carrier cannot assign numbers from a minimally-contaminated block (i.e., with 10 percent or less utilization) unless all of the carrier's contaminated blocks have reached the 75 percent utilization fill-rate. A carrier cannot assign numbers from an uncontaminated thousands block unless all of the carrier's contaminated and minimally-contaminated blocks reach 75 percent utilization. Once all of the carrier's thousands blocks reach 75 percent utilization, the carrier can request another exchange ("NXX") code from the North American Number Plan Administration (Order at 3).

The Department's Order is consistent with the Federal Communications Commission ("FCC")'s September 15, 1999 Order ("FCC Order"), (1) which requires a carrier seeking a waiver of the fill-rate ratio to file a motion with the Department and to provide back-up information and data supporting its reasons for its request. The FCC Order also requires the Department to ascertain carrier compliance with the fill-rate requirement and to review a carrier's request for numbers within ten days if the carrier provides adequate information initially to the Department (FCC Order at ¶ 36).

The Department included the waiver requirement so that carriers whose numbering resources will not meet projected demand will still have a mechanism to secure adequate resources for justified requests. The waiver procedure gives the Department oversight authority to control waste of numbering resources by evaluating a carrier's request on a case-specific basis, rather than by creating a blanket exception for customer preferences. This waiver procedure is in keeping with the FCC's Order that "the Department [a]llow for some flexibility in establishing fill rates and applying them to carriers." *Id.* at ¶ 32.

2. If granted, AT&T's Motion will encourage abuse of numbering resources.

On February 15, 2000, AT&T filed a motion which asks the Department to eliminate the waiver requirement on the grounds that the time required to obtain a waiver could

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result in a competitive disadvantage to carriers who do not have certain number resources (Motion at 4). AT&T contends that the Department should revise its numbering guidelines for customers with specific needs due to technical limitations of their equipment or preferences for a range of numbers (id.). AT&T suggests that the Department's Order does not allow carriers to satisfy specific customer requirements (id. at 2).

The Department should deny AT&T's Motion because it would eliminate the supervision of carriers contaminating thousands blocks. The Department is charged with the duty to perform such supervision by the FCC (FCC Order at ¶ 36). The waiver requirement assures the Department that carriers will maximize their numbering resources using a three-tier system. This wise use waiver requirement also requires that carriers support their request with documentation so that the Department may review the request expeditiously. If the waiver requirement is removed, carriers will be able to request and open a new NXX code or thousands block at will and then contaminate the block, making the block unavailable for pooling to other carriers. Carriers will not have to demonstrate their need for blocks, and compliance with the fill-rate ratio rules will be gone. The net effect will be to undermine, if not negate, the only number conservation measure that the Department has adopted to address the now nearly two-year-old numbering crisis.

Contrary to AT&T's assertion, the Department's fill-rate ratio and waiver requirements do not prevent carriers from providing their customers with numbering resources. Rather, the Department's requirements allow it to screen out unsupported and unwarranted requests. The Department can complete its review process within the FCC-approved ten day time period if the carrier provides the Department with adequate information. A customer may have to wait a few days to receive his vanity number, but that delay would not necessarily deny the customer his number preference or place the carrier at an unreasonable or unfair competitive disadvantage. Because the Department has not ordered implementation of number pooling to date, it cannot afford to allow carriers to contaminate unnecessarily any more thousands blocks of numbers. Accordingly, the Department should deny AT&T's Motion on the grounds that the Motion will destroy the check-and-balance system contained in the Department's current regulations on fill-rate ratios and waivers.

AT&T suggests that the Attorney General and other parties to the Area Code Conservation docket, D.T.E. 98-38, have endorsed guidelines to meet specific numbering requirements regardless of fill-rate ratios. AT&T's loose characterization of the Attorney General's proposed interim rule in his June 1, 1998, Emergency Motion, filed in D.T.E. 98-38, misses a critical point: in his Emergency Motion, the Attorney General recommended that the Department use a 75 percent fill-rate ratio, with exceptions granted for documented customer requirements (Emergency Motion at 3). Nearly two years ago, the Attorney General urged the Department to require carriers to document their needs before receiving a waiver of the 75 percent fill-rate ratio. The Attorney General renews that recommendation.

3. Conclusion.

Wherefore, for all the foregoing reasons, the Attorney General urges the Department to deny AT&T's Motion for Partial Reconsideration and to preserve the Department's fill-rate ratio and waiver procedures.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding by e-mail and either hand delivery, mail, or fax.

Dated at Boston this 6th day of March 2000.

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1. In the Matter of Massachusetts Department of Telecommunications and Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes, CC Docket No. 96-98, FCC No. 99-246, NSD-L-99-19 (released September 15, 1999) ("FCC Order"). The FCC granted the Department interim authority to: (1) order mandatory thousands block number pooling trials; (2) reclaim unused and reserved NXX codes; (3) maintain rationing procedures for six months following area code relief; (4) set numbering allocation standards; and (5) hear and address claims of carriers seeking numbering resources outside of the rationing process (FCC Order at ¶ 1).